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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PRIVA SPORT INC. and subrogated cargo : ECF CASE  
insurers, : 08 Civ. 7094 (RJH)  
Plaintiffs, : **COMPLAINT**  
- against - :  
UPS OCEAN FREIGHT SERVICES, INC.; :  
UPS SUPPLY CHAIN SOLUTIONS, INC.; :  
UPS-SCS (ITALY) SRL; M/V "SL QUALITY", :  
her engines, tackle, boilers, etc.; :  
Defendants. :  
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Plaintiffs, through their undersigned attorney, allege as follows for their complaint against defendants upon information and belief:

#### **FIRST CAUSE OF ACTION**

1. This is an admiralty and maritime claim within the meaning of Rule 9 (h) with respect to the carriage of the subject cargo by sea and falls within the Court's pendent, ancillary, and supplemental jurisdiction as to the remaining aspects of the claim. Plaintiffs seek recovery for cargo loss and damage caused by defendant's breaches of contract and torts.

2. Plaintiff Priva Sport Inc. is a corporation organized under the laws of Canada and sues herein as the purchaser, owner and intended consignee of the cargo in

suit, and as the holder of the negotiable order bill of lading issued by defendants. This action is also brought by and on behalf of the subrogated insurers of the cargo, Certain Underwriters at Lloyd's London represented by Service Assurance Holdos, Inc., as their interests may appear.

3. Defendants UPS Ocean Freight Services, Inc. and UPS Supply Chain Solutions, Inc. are believed to be corporations organized under the laws of certain of the fifty states. Defendant UPS-SCS (Italy) SRL is believed to be a corporation organized under the laws of a foreign sovereign. Said defendants (collectively referred to as "UPS") are engaged in the business of providing services as common carriers of cargo for hire and provide such services with respect to shipments to, from and through the State of New York.

4. Upon information and belief the captioned vessel is now, or will be during the pendency of this action, within the admiralty and maritime jurisdiction of this Honorable Court or otherwise subject to jurisdiction pursuant to Rule 4(k)(2) Federal Rules of Civil Procedure.

5. This action involves nondelivery of a shipment of sportswear and shoes moving or intended to move in container GLDU2036451 aboard the M/V "SL QUALITY", Voyage 0714, from Genoa, Italy, to Newark, with on-carriage to Hillsborough, North Carolina, as described more fully in UPS door-to-door negotiable order bill of lading 7044228939 dated on or about September 3, 2007, and others.<sup>1</sup> (UPS claim X20-7110328)

6. The aforesaid nondelivery was caused by (a) defendants' reckless failure to properly load, stow, lash, carry, care for and deliver the subject cargo and the

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<sup>1</sup> Defendants' bill of lading includes a Southern District of New York forum selection clause.

unseaworthiness of the carrying vessel and container; and (b) defendants' material deviations and fundamental breaches of the contract of carriage.

7. As a result of the aforesaid, defendants are liable to plaintiffs as common carriers, bailees and/or warehousemen for hire for damages in the amount of \$19,350.00.

8. Plaintiffs sue on their own behalf and as agents and trustees for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

### **SECOND CAUSE OF ACTION**

9. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 8 of this complaint.

10. Defendants issued a fraudulent onboard negotiable bill of lading which misrepresented the content of the carrying container at the time of loading aboard the vessel.

### **THIRD CAUSE OF ACTION**

11. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 8 of this complaint.

12. Defendants converted the cargo to their own use.

WHEREFORE, plaintiffs demand judgment against the captioned defendants jointly and severally in the amount of \$19,350.00 in addition to interest at the rate of 9% per annum and the costs of this action and requests that the Court issue its process against the aforesaid vessel in rem.

Dated: New York, New York  
August 8, 2008

LAW OFFICES,  
DAVID L. MAZAROLI

*s/*David L. Mazaroli

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